

AMENDED IN ASSEMBLY APRIL 16, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2713**

**Introduced by Assembly Member Conroy**

February 22, 1996

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An act to amend ~~Section 830.3~~ *Sections 830.7 and 830.11* of the Penal Code, and to add ~~Section 308.5~~ *Sections 308.5 and 5322* to the Public Utilities Code, relating to ~~peace officers~~ *public utilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2713, as amended, Conroy. ~~Peace officers~~ *Public utilities: enforcement actions.*

~~Existing law provides that peace officers are those whose authority extends to any place in the state for purposes of performing their primary duty or when making an arrest under specified provisions of law. The authority of these peace officers to carry firearms is subject to prior authorization and terms and conditions specified by the employing agency.~~

*Existing law provides that certain persons, including specified employees of the Safety and Enforcement Division of the Public Utilities Commission, are not peace officers but may exercise the powers of arrest during the course and within the scope of their employment upon successful completion of a course in the exercise of those powers.*

~~This bill would add to the list of peace officers to which this provision applies~~ *also permit* persons employed by the Safety and Enforcement Division of the Public Utilities Commission

who are designated by the Director of the Safety and Enforcement Division and approved by the commission *to exercise the power to serve warrants*, for the purposes of duties as specified by this bill. This bill would provide that peace officers designated pursuant to this bill shall not carry firearms.

*The bill would also permit the commission to take specified enforcement actions against unlicensed household goods carriers, and would require telephone corporations to refuse telephone service if other enforcement actions have failed. Because violations of orders, decisions, rules, or other requirements of the Public Utilities Commission are misdemeanors, this bill would impose a state-mandated local program by creating new crimes.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature that the  
2 changes effected by this act shall serve only to define  
3 peace officers, the extent of their jurisdiction, and the  
4 nature and scope of their authority, powers and duties,  
5 and that there shall be no change in the status of  
6 individuals for purposes of retirement, workers'  
7 compensation or similar injury or death benefits, or other  
8 employee benefits.

9 ~~SEC. 2. Section 830.3 of the Penal Code is amended to~~  
10 ~~read:~~

11 ~~830.3. The following persons are peace officers whose~~  
12 ~~authority extends to any place in the state for the purpose~~  
13 ~~of performing their primary duty or when making an~~  
14 ~~arrest pursuant to Section 836 of the Penal Code as to any~~  
15 ~~public offense with respect to which there is immediate~~

1 ~~danger to person or property, or of the escape of the~~  
2 ~~perpetrator of that offense, or pursuant to Section 8597 or~~  
3 ~~8598 of the Government Code. These peace officers may~~  
4 ~~carry firearms only if authorized and under those terms~~  
5 ~~and conditions as specified by their employing agencies:~~

6 ~~(a) Persons employed by the Division of Investigation~~  
7 ~~of the Department of Consumer Affairs and investigators~~  
8 ~~of the Medical Board of California and the Board of~~  
9 ~~Dental Examiners, who are designated by the Director of~~  
10 ~~Consumer Affairs, provided that the primary duty of~~  
11 ~~these peace officers shall be the enforcement of the law~~  
12 ~~as that duty is set forth in Section 160 of the Business and~~  
13 ~~Professions Code.~~

14 ~~(b) Voluntary fire wardens designated by the Director~~  
15 ~~of Forestry and Fire Protection pursuant to Section 4156~~  
16 ~~of the Public Resources Code, provided that the primary~~  
17 ~~duty of these peace officers shall be the enforcement of~~  
18 ~~the law as that duty is set forth in Section 4156 of that code.~~

19 ~~(c) Employees of the Department of Motor Vehicles~~  
20 ~~designated in Section 1655 of the Vehicle Code, provided~~  
21 ~~that the primary duty of these peace officers shall be the~~  
22 ~~enforcement of the law as that duty is set forth in Section~~  
23 ~~1655 of that code.~~

24 ~~(d) Investigators of the California Horse Racing Board~~  
25 ~~designated by the board, provided that the primary duty~~  
26 ~~of these peace officers shall be the enforcement of~~  
27 ~~Chapter 4 (commencing with Section 19400) of Division~~  
28 ~~8 of the Business and Professions Code and Chapter 10~~  
29 ~~(commencing with Section 330) of Title 9 of Part 1 of this~~  
30 ~~code.~~

31 ~~(e) The State Fire Marshal and assistant or deputy~~  
32 ~~state fire marshals appointed pursuant to Section 13103 of~~  
33 ~~the Health and Safety Code, provided that the primary~~  
34 ~~duty of these peace officers shall be the enforcement of~~  
35 ~~the law as that duty is set forth in Section 13104 of that~~  
36 ~~code.~~

37 ~~(f) Inspectors of the food and drug section designated~~  
38 ~~by the chief pursuant to subdivision (a) of Section 216 of~~  
39 ~~the Health and Safety Code, provided that the primary~~

~~1 duty of these peace officers shall be the enforcement of  
2 the law as that duty is set forth in Section 216 of that code.~~

~~3 (g) All investigators of the Division of Labor Standards  
4 Enforcement designated by the Labor Commissioner,  
5 provided that the primary duty of these peace officers  
6 shall be enforcement of the law as prescribed in Section  
7 95 of the Labor Code.~~

~~8 (h) All investigators of the State Departments of  
9 Health Services, Social Services, Mental Health,  
10 Developmental Services, and Alcohol and Drug  
11 Programs, the Department of Toxic Substances Control,  
12 and the Office of Statewide Health Planning and  
13 Development, and the Public Employees' Retirement  
14 System, provided that the primary duty of these peace  
15 officers shall be the enforcement of the law relating to the  
16 duties of his or her department, or office.  
17 Notwithstanding any other provision of law, investigators  
18 of the Public Employees' Retirement System shall not  
19 carry firearms.~~

~~20 (i) The Chief of the Bureau of Fraudulent Claims of  
21 the Department of Insurance and those investigators  
22 designated by the chief, provided that the primary duty  
23 of those investigators shall be enforcement of Section 550  
24 of the Penal Code.~~

~~25 (j) Employees of the Department of Housing and  
26 Community Development designated under Section  
27 18023 of the Health and Safety Code, provided that the  
28 primary duty of these peace officers shall be the  
29 enforcement of the law as that duty is set forth in Section  
30 18023 of that code.~~

~~31 (k) Investigators of the office of the Controller,  
32 provided that the primary duty of these investigators  
33 shall be the enforcement of the law relating to the duties  
34 of that office. Notwithstanding any other law, except as  
35 authorized by the Controller, the peace officers  
36 designated pursuant to this subdivision shall not carry  
37 firearms.~~

~~38 (l) Investigators of the Department of Corporations  
39 designated by the Commissioner of Corporations,  
40 provided that the primary duty of these investigators~~

1 ~~shall be enforcement of the provisions of law~~  
2 ~~administered by the Department of Corporations.~~  
3 ~~Notwithstanding any other provision of law, the peace~~  
4 ~~officers designated pursuant to this subdivision shall not~~  
5 ~~carry firearms.~~

6 ~~(m) Persons employed by the Contractors' State~~  
7 ~~License Board designated by the Director of Consumer~~  
8 ~~Affairs pursuant to Section 7011.5 of the Business and~~  
9 ~~Professions Code, provided that the primary duty of these~~  
10 ~~persons shall be the enforcement of the law as that duty~~  
11 ~~is set forth in Section 7011.5, and in Chapter 9~~  
12 ~~(commencing with Section 7000) of Division 3, of that~~  
13 ~~code. The Director of Consumer Affairs may designate as~~  
14 ~~peace officers not more than three persons who shall at~~  
15 ~~the time of their designation be assigned to the special~~  
16 ~~investigations unit of the board. Notwithstanding any~~  
17 ~~other provision of law, the persons designated pursuant~~  
18 ~~to this subdivision shall not carry firearms.~~

19 ~~(n) The chief and coordinators of the Law~~  
20 ~~Enforcement Division of the Office of Emergency~~  
21 ~~Services.~~

22 ~~(o) Investigators of the office of the Secretary of State~~  
23 ~~designated by the Secretary of State, provided that the~~  
24 ~~primary duty of these peace officers shall be the~~  
25 ~~enforcement of the law as prescribed in Chapter 3~~  
26 ~~(commencing with Section 8200) of Division 1 of Title 2~~  
27 ~~of, and Section 12172.5 of, the Government Code.~~  
28 ~~Notwithstanding any other provision of law, the peace~~  
29 ~~officers designated pursuant to this subdivision shall not~~  
30 ~~carry firearms.~~

31 ~~(p) The Deputy Director for Security designated by~~  
32 ~~Section 8880.38 of the Government Code, and all lottery~~  
33 ~~security personnel assigned to the California State~~  
34 ~~Lottery and designated by the director, provided that the~~  
35 ~~primary duty of any of those peace officers shall be the~~  
36 ~~enforcement of the laws related to assuring the integrity,~~  
37 ~~honesty, and fairness of the operation and administration~~  
38 ~~of the California State Lottery.~~

39 ~~(q) Investigators employed by the Investigation~~  
40 ~~Division of the Employment Development Department~~

~~designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.~~

~~Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.~~

~~(r) The chief and assistant chief of museum security and safety of the California Museum of Science and Industry, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.~~

~~(s) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.~~

~~(t) Persons employed by the safety and enforcement division of the Public Utilities Commission who are designated by the Director of the Safety and Enforcement Division and approved by the commission, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 308.5 of the Public Utilities Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.~~

~~Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.~~

~~SEC. 3.—~~

~~SEC. 2. Section 830.7 of the Penal Code is amended to read:~~

~~830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer~~

1 as specified in Section 836 during the course and within  
2 the scope of their employment, if they successfully  
3 complete a course in the exercise of those powers  
4 pursuant to Section 832:

5 (a) Persons designated by a cemetery authority  
6 pursuant to Section 8325 of the Health and Safety Code.

7 (b) Persons regularly employed as security officers for  
8 institutions of higher education, recognized under  
9 subdivision (a) of Section 94310.1 of the Education Code,  
10 if the institution has concluded a memorandum of  
11 understanding, permitting the exercise of that authority,  
12 with the sheriff or chief of police within whose  
13 jurisdiction the institution lies.

14 (c) Persons regularly employed as security officers for  
15 health facilities, as defined in Section 1250 of the Health  
16 and Safety Code, which are owned and operated by cities,  
17 counties, and cities and counties, if the facility has  
18 concluded a memorandum of understanding, permitting  
19 the exercise of that authority, with the sheriff or chief of  
20 police within whose jurisdictions the facility lies.

21 (d) Employees or classes of employees of the  
22 California Department of Forestry and Fire Protection  
23 designated by the Director of Forestry and Fire  
24 Protection, provided that the primary duty of the  
25 employee shall be the enforcement of the law as that duty  
26 is set forth in Section 4156 of the Public Resources Code.

27 ~~(e) Employees of the Public Utilities Commission~~  
28 ~~assigned to the Transportation Division, designated by~~  
29 ~~the division director and approved by the commission, to~~  
30 ~~the extent necessary to enforce the provisions of the~~  
31 ~~Public Utilities Code. These employees may exercise the~~  
32 ~~power to serve warrants as specified in Sections 1523 and~~  
33 ~~1530 during the course and within the scope of their~~  
34 ~~employment, if they receive a course in the exercise of~~  
35 ~~those powers pursuant to Section 832.~~

36 ~~(f)~~

37 (e) Persons regularly employed as inspectors,  
38 supervisors, or security officers for transit districts, as  
39 defined in Section 99213 of the Public Utilities Code, if the  
40 district has concluded a memorandum of understanding

1 permitting the exercise of that authority, with, as  
2 applicable, the sheriff, chief of police, or California  
3 Highway Patrol within whose jurisdiction the district lies.  
4 For purposes of this subdivision, the exercise of peace  
5 officer authority may include the authority to remove a  
6 vehicle from a railroad right-of-way as set forth in Section  
7 22656 of the Vehicle Code.

8 ~~(g)~~

9 (f) Nonpeace officers regularly employed as county  
10 parole officers pursuant to Section 3089.

11 *SEC. 3. Section 830.11 of the Penal Code is amended*  
12 *to read:*

13 830.11. (a) The following persons are not peace  
14 officers but may exercise the powers of arrest of a peace  
15 officer as specified in Section 836 and the power to serve  
16 warrants as specified in Sections 1523 and 1530 during the  
17 course and within the scope of their employment, if they  
18 receive a course in the exercise of those powers pursuant  
19 to Section 832. The authority and powers of the persons  
20 designated under this section shall extend to any place in  
21 the state:

22 (1) Persons employed by the State Banking  
23 Department designated by the Superintendent of Banks,  
24 provided that the primary duty of those persons shall be  
25 the enforcement of, and investigations relating to, the  
26 provisions of law administered by the State Banking  
27 Department.

28 (2) Persons employed by the Department of Savings  
29 and Loan designated by the Commissioner of Savings and  
30 Loan, provided that the primary duty of those persons  
31 shall be the enforcement of, and investigations relating  
32 to, the provisions of law administered by the Department  
33 of Savings and Loan.

34 (3) Persons employed by the Department of Real  
35 Estate designated by the Real Estate Commissioner,  
36 provided that the primary duty of these persons shall be  
37 the enforcement of the laws set forth in Part 1  
38 (commencing with Section 10000) and Part 2  
39 (commencing with Section 11000) of Division 4 of the  
40 Business and Professions Code. The Real Estate



1 Commissioner may designate persons under this section,  
2 who at the time of their designation, are assigned to the  
3 Special Investigations Unit, internally known as the Crisis  
4 Response Team.

5 (4) Persons employed by the State Lands Commission  
6 designated by the executive officer, provided that the  
7 primary duty of those persons shall be the enforcement  
8 of the law relating to the duties of the State Lands  
9 Commission.

10 (5) *Persons employed by the Safety and Enforcement*  
11 *Division of the Public Utilities Commission who are*  
12 *designated by the Director of the Safety and*  
13 *Enforcement Division, and approved by the commission,*  
14 *provided that the primary duty of these persons shall be*  
15 *the enforcement of the law as that duty is set forth in*  
16 *Section 308.5 of the Public Utilities Code.*

17 (b) Notwithstanding any other provision of law,  
18 persons designated pursuant to this section shall not carry  
19 firearms.

20 (c) Persons designated pursuant to this section shall be  
21 included as “peace officers of the state” under paragraph  
22 (2) of subdivision (c) of Section 11105 for the purpose of  
23 receiving state summary criminal history information  
24 and shall be furnished that information on the same basis  
25 as peace officers of the state designated in paragraph (2)  
26 of subdivision (c) of Section 11105.

27 SEC. 4. Section 308.5 is added to the Public Utilities  
28 Code, to read:

29 308.5. Persons employed as investigators and  
30 investigator supervisors of the Safety and Enforcement  
31 Division of the commission who are designated by the  
32 Director of the Safety and Enforcement Division and  
33 approved by the commission have the authority of peace  
34 officers while engaged in exercising the powers granted  
35 to or performing the duties imposed upon them in  
36 investigating the laws administered by the commission or  
37 commencing directly or indirectly any criminal  
38 prosecution arising from any investigation conducted  
39 under these laws. All persons herein referred to shall be

1 deemed to be acting within the scope of employment  
2 with respect to all acts and matters set forth in this section.

3 *SEC. 5. Section 5322 is added to the Public Utilities*  
4 *Code, to read:*

5 *5322. (a) The Legislature finds and declares that*  
6 *advertisement and use of telephone service is essential for*  
7 *household goods carriers to obtain business and conduct*  
8 *intrastate moving services. The unlawful advertisement*  
9 *by unlicensed household goods carriers, has required*  
10 *properly licensed and regulated household goods carriers*  
11 *to compete with unlicensed household goods carriers*  
12 *using unfair business practices. Unlicensed household*  
13 *goods carriers have also exposed citizens of the State of*  
14 *California to unscrupulous persons who portray*  
15 *themselves as properly licensed, qualified, and insured*  
16 *household goods carriers. Many of these unlicensed*  
17 *household goods carriers have been found to have*  
18 *perpetrated acts of theft, fraud, and dishonesty upon*  
19 *unsuspecting citizens of the State of California.*

20 *(b) The Legislature finds and declares that the*  
21 *termination of telephone service utilized by unlicensed*  
22 *household goods carriers is essential to ensure the public*  
23 *safety and welfare. Therefore, the commission should*  
24 *take enforcement action as specified in this section to*  
25 *disconnect telephone service of unlicensed household*  
26 *goods carriers who unlawfully advertise moving services*  
27 *in yellow page directories, and other publications. The*  
28 *enforcement action provided in this section is consistent*  
29 *with the decision of the Supreme Court of the State of*  
30 *California in Goldin, et al. v. Public Utilities Commission*  
31 *et al., 23 Cal. 3d 638.*

32 *(c) Any telephone utility operating under the*  
33 *jurisdiction of the commission shall refuse telephone*  
34 *service to a new customer and shall disconnect telephone*  
35 *service of an existing customer only after it is shown that*  
36 *other available enforcement remedies of the commission*  
37 *have failed to terminate unlawful activities detrimental*  
38 *to the public welfare and safety, and upon receipt from*  
39 *any authorized official of the commission of a writing,*  
40 *signed by a magistrate, as defined by Sections 807 and 808*

1 of the Penal Code, finding that probable cause exists to  
2 believe that the customer is advertising or holding out to  
3 the public to perform, or is performing, household goods  
4 carrier services without having in force a permit issued by  
5 the commission authorizing those services, or that the  
6 telephone service is otherwise being used or is to be used  
7 as an instrumentality, directly or indirectly, to violate or  
8 to assist in violation of the laws requiring a household  
9 goods carrier permit. Included in the writing of the  
10 magistrate shall be a finding that there is probable cause  
11 to believe that the subject telephone facilities have been  
12 or are to be used in the commission or facilitation of  
13 holding out to the public to perform, or in performing,  
14 household goods carrier services without having in force  
15 a permit issued by the commission authorizing those  
16 service, and that, absent immediate and summary action,  
17 a danger to public welfare or safety will result.

18 (d) Any person aggrieved by any action taken  
19 pursuant to this section shall have the right to file a  
20 complaint with the commission and may include therein  
21 a request for interim relief. The commission shall  
22 schedule a public hearing on the complaint to be held  
23 within 21 calendar days of the filing and assignment of a  
24 docket number to the complaint. The remedy provided  
25 by this section shall be exclusive. No other action at law  
26 or in equity shall accrue against any telephone utility  
27 because of, or as a result of, any matter or thing done or  
28 threatened to be done pursuant to the provisions of this  
29 section.

30 (e) At any hearing on complaint pursuant to  
31 subdivision (d), the commission staff shall have the right  
32 to participate, including the right to present evidence  
33 and argument and to present and cross-examine  
34 witnesses. The commission staff shall have both the  
35 burden of providing that the use made or to be made of  
36 the telephone service is to hold out to the public to  
37 perform, or to assist in performing, services as a household  
38 goods carrier, or that the telephone service is being or is  
39 to be used as an instrumentality, directly or indirectly, to  
40 violate or to assist in violation of the licensing laws as

1 applicable to household goods carriers and that the  
2 character of the acts is such that, absent immediate and  
3 summary action, a danger to public welfare or safety will  
4 result, and the burden of persuading the commission that  
5 the telephone services should be refused or should not be  
6 restored.

7 (f) The telephone utility immediately upon refusal or  
8 disconnection of service in accordance with subdivision  
9 (c), shall notify the customer or subscriber in writing that  
10 the refusal or disconnection of telephone service has been  
11 made pursuant to a request of the commission and the  
12 writing of a magistrate, and shall include with the notice  
13 of a copy of this section, a copy of the writing of the  
14 magistrate, and a statement that the customer or  
15 subscriber may request information from the commission  
16 at its San Francisco or Los Angeles office concerning any  
17 provision of this section and the manner in which a  
18 complaint may be filed.

19 (g) Each contract for telephone service, by operation  
20 of law, shall be deemed to contain the provisions of this  
21 section. The provisions shall be deemed to be a part of any  
22 application for telephone service. Applicants and  
23 customers for telephone service shall be deemed to have  
24 consented to the provisions of this section as a  
25 consideration for the furnishing of the service.

26 (h) The terms "person," "customer," and "subscriber"  
27 as used in this section, include a subscriber to telephone  
28 service, an applicant for that service, a corporation, a  
29 company, a partnership, an association, and an individual.

30 (i) The term "telephone utility," as used in this  
31 section, includes a "telephone corporation" and a  
32 "telegraph corporation," as defined in Division 1  
33 (commencing with Section 201).

34 (j) The term "authorized official" as used in this  
35 section shall include the Director of the Safety and  
36 Enforcement Division of the Public Utilities Commission  
37 or any commission employee designated pursuant to  
38 paragraph (5) of subdivision (a) of Section 830.11 of the  
39 Penal Code.

1    *SEC. 6. No reimbursement is required by this act*  
2    *pursuant to Section 6 of Article XIII B of the California*  
3    *Constitution because the only costs that may be incurred*  
4    *by a local agency or school district will be incurred*  
5    *because this act creates a new crime or infraction,*  
6    *eliminates a crime or infraction, or changes the penalty*  
7    *for a crime or infraction, within the meaning of Section*  
8    *17556 of the Government Code, or changes the definition*  
9    *of a crime within the meaning of Section 6 of Article*  
10   *XIII B of the California Constitution.*

11    *Notwithstanding Section 17580 of the Government*  
12    *Code, unless otherwise specified, the provisions of this act*  
13    *shall become operative on the same date that the act*  
14    *takes effect pursuant to the California Constitution.*

